

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 4036-03
BILL NO.: HCS for HB 1966
SUBJECT: Motor Vehicle; Crimes and Punishments; Alcohol
TYPE: Original
DATE: March 3, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Highway Fund	\$28,095	\$74,567	\$74,567
General Revenue	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown, to exceed \$71,905)	(Unknown, to exceed \$25,433)	(Unknown, to exceed \$25,433)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local government	\$19,412 to (Unknown)	\$33,277 to (Unknown)	\$33,277 to (Unknown)

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 10 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Public Safety - Missouri State Highway Patrol, Water Patrol and Office of Prosecution Services** assume this proposal would have no fiscal impact to their agencies. In response to previous versions of this proposal, officials of the **Office of the Attorney General** assumed this proposal would have no fiscal impact to their agency.

Officials of the **State Public Defender (SPD)** assume that existing staff could provide representation for those 50 - 75 cases arising where indigent persons were charged with "driving while intoxicated at .08% and the additional representation needed for the more serious offenses of Repeat, Persistent and Persistent Dangerous DWI offenders. However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused. Appropriations are typically requested through the increased trial division caseload decision item in the SPD's Legislative Budget Request.

Officials from the **Department of Revenue (DOR)** assume this proposal creates a new crime of aggravated driving with excessive blood alcohol content of .15% or more. Upon conviction of this offense, the DOR will assess 12 points on the individual's driving record. This proposal requires a 90 day suspension if convicted of aggravated driving with excessive blood alcohol content and the individual is not eligible to obtain a limited driving privilege. In order to be reinstated, the individual must pay a \$45 reinstatement fee and complete a substance abuse traffic offenders program. Aggravated driving while intoxicated, assault in the second degree and assault of a law enforcement officer in the second degree will be used to initiate a five year denial of a driving privilege. This proposal also decreases the legal limit of intoxication from .10% to .08% for operating a motor vehicle. In addition, minimum limit of intoxication for the administrative per se law has been reduced to .08%. No individual convicted of aggravated driving with excessive blood alcohol content is eligible to receive a limited driving privilege as this offense upon conviction is a felony.

A court **may** require an individual convicted of a first intoxication-related offense, and **shall** require an individual convicted of a second or subsequent intoxication-related offense not to operate **or own** a motor vehicle unless that vehicle is equipped with an ignition interlock device for a period of at least one month after the date of reinstatement of the individual's driving privilege. In addition any court granting a limited driving privilege to anyone convicted of a second or subsequent intoxication related traffic offense shall require the individual to have an ignition interlock device installed on all vehicles they own or operate.

ASSUMPTION (continued)

Finally, a court may impound or immobilize all vehicles owned or operated by any person who is convicted of a second or subsequent intoxicated-related traffic offense in lieu of requiring the individual to install an ignition interlock device on such vehicles.

The Drivers License Bureau (DLB) currently receives convictions and administrative suspension documentation relating to driving while intoxicated with a blood alcohol content of .15% or more. The new conviction of aggravated driving with excessive blood alcohol content will not have an impact on the Drivers License Bureau.

Revisions to section 577.010.2 will no longer allow a court to impose a suspended imposition of sentence on a first alcohol related offense. The DLB estimates 4,338 additional convictions will be assessed points and added to the driving record. The Drivers License Bureau will require two hours of Clerk Typist II overtime per day to handle the additional volume of convictions.

Revisions to section 577.037 reduce the minimum limit of intoxication that can be used as prima facie evidence to .08. The Drivers License Bureau Estimates this reduction will generate an additional 2,794 convictions for driving while intoxicated. The Drivers License Bureau will require 1.5 hours of Clerk Typist II overtime per day to handle the additional volume of convictions.

In addition, reducing the minimum level of intoxication under the administrative per se law will result additional administrative alcohol arrest documentation being sent to the Drivers License Bureau. The Drivers License Bureau estimates the additional administrative alcohol arrest documentation will require two hours of Clerk Typist II overtime per day to process. Total overtime requested per day for all these items = 5.5 hours per day. This results in anticipated overtime costs of \$16,719 in FY 01 and \$20,063 in FY 02 and 03.

260	Days per year
x 5.5	Overtime hours required
1,430	Total overtime hours

\$14.03	Overtime hourly rate
x 1,430	Overtime hours required
\$ 20,063	Total overtime required

Revenue Increase

The increase in alcohol convictions as a result of the elimination of suspended imposition of sentences for driving while intoxicated convictions and the reduction in the minimum level of ASSUMPTION (continued)

intoxication for driving while intoxicated convictions to .08 will result in additional suspensions

and revocations of driving privileges. In addition, the reduction of the minimum level of intoxication to .08 will result in additional suspensions and revocations imposed under the administrative per se law. Subsequently, an increase in reinstatement fees will also be incurred.

The Drivers License Bureau estimates an additional 4,338 suspensions/revocations imposed as a result of eliminating the court's ability to impose a suspended imposition of sentence.

The Drivers License Bureau estimates an additional 2,794 suspensions/revocations as a result of the reduction of the minimum level of intoxication to .08 for driving while intoxicated convictions.

The Drivers License Bureau estimates 4,244 additional suspensions/revocations as a result of the reduction of the minimum level of intoxication to .08 under the administrative per se law.

The current compliance rate for reinstatements on actions relating to driving while intoxicated is 26%. Therefore, of the 11,376 additional convictions anticipated, 2,958 are expected to come into compliance and be reinstated, resulting in an additional \$133,110 collected in reinstatement fees.

4,338	Actions due to elimination of S.I.S.
2,794	Actions due to .08 on convictions
+ 4,244	Actions due to .08 administrative per se
11,376	
x 26%	Reinstatement Rate
2,958	
x \$45	Reinstatement Fee
\$133,110	Revenue Increase

$\$133,110/12 \times 7 \text{ months} = \$77,648$

FY 01

\$58,236	Highway Fund
\$11,647	Cities
\$ 7,765	CART

FY 02 & 03

\$99,833	Highway Fund
\$19,967	Cities
\$13,310	CART

ASSUMPTION (continued)

Postage Costs

PMM:LR:OD:005 (9-94)

The Drivers License Bureau will be required to mail an additional 15,767 documents as a result of this legislation. These documents include correspondence, notices of suspension/revocation, and notices of reinstatement.

15,767
x \$.33 Postage Rate
\$5,203

Forms

The Drivers License Bureau will be required to modify and replace the existing stock of alcohol influence reports. This will require the ordering and distribution of 200,000 forms. Total forms costs equal approximately \$6,017. In order to mail modified alcohol arrest forms to law enforcement agencies, the Drivers License Bureau will require postage in the amount of \$3,070.

Officials of the **State Courts Administrator (CTS)** stated the proposed legislation would: tighten the standard for presuming driving while intoxicated by changing the blood alcohol standard from 0.1 to .08; expand the open container law; create a new penalty for "aggravated driving" offenders; restrict eligibility for a hardship license; include "boating while intoxicated" and any probationer or parolee for any alcohol-related offense as those required to complete a SATOP program before they are released from probation or parole; require the court to order the offender to pay restitution to the state in the amount of any fee or portion of any fee paid by the state on behalf of the offender; increase the penalty for first offense DWI and prohibit an SIS for all; create the classification of "dangerous persistent offender" and change the definition of "persistent offender" and "prior offender" and create a class of "repeat offender"; mandate 48 hours incarceration for some offenders; and repeal the statute allowing first offense alcohol convictions to be expunged. Depending on the degree of enforcement, there may be an increase in the number of cases filed. However, there is no way to quantify the increase at this time. Because of the increased penalties, some cases may become protracted. There will be an impact on the Department of Corrections.

Officials of the **Missouri Department of Transportation (MoDOT)** stated this proposal is compliant with federal requirements for the blood alcohol content of .08 and the open container provisions. However, it is unsure if the provisions relating to repeat offenders is in compliance, due to the impoundment of motor vehicles. MoDOT has not received a ruling from the National Highway Traffic Safety Administration; therefore, the impact of this legislation is unknown.

ASSUMPTION (continued)

Officials of the **Department of Corrections (DOC)** assume the penalty provision portions of the proposal would have a fiscal impact on DOC relating to probation, parole and/or incarceration.

New commitments which could result from the creation of the offense(s) outlined in this proposal could not be accurately determined. In addition, changes in penalty provisions for current crimes could result in additional costs due to new commitments and/or longer sentences. The utilization of these laws for both new offenses and enhanced penalties for current offenses depend upon actions of prosecutors and the courts.

If additional persons were sentenced to the custody of the DOC due to the provisions of this proposal, the DOC would incur a corresponding increase in operational costs either through incarceration (average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$2.47 per offender, per day).

At this time, the DOC is unable to determine the number of people that would be convicted under the provisions of this proposal to estimate the potential need for additional capital improvements. Estimated construction cost for one new medium- security inmate bed is \$48,300 (a maximum-security inmate bed is \$55,000). Utilizing this per bed cost provides for a conservative estimate by the DOC, as entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

Due to the wide variance of crimes and punishments including newly created crimes and punishments, the fiscal impact as it relates to the DOC is unknown, but estimated to be significant, or in excess of \$100,000 per year. If only three additional beds had to be constructed as a result of this proposal, the fiscal impact would be well over \$100,000. **Oversight** assumes this proposal could result in unknown costs in excess of \$100,000.

Oversight assumes this proposal could result in increased jail time and therefore has ranged the costs to local government from \$0 to (unknown).

Officials from the **Department of Public Safety, Division of Highway Safety** stated if this bill puts Missouri in compliance with Congressional TEA-21 requirements (23 CFR Part 1225 Section 163) concerning .08 BAC, Missouri would be eligible to receive an Incentive Grant in excess of \$3 mil. If this legislation puts Missouri in compliance with Congressional TEA-21 requirements (23 CFR Part 1270 Section 154) concerning Open Containers, the state would avoid transfer of federal highway funds (in excess of \$6 M) from construction projects to hazard elimination and/or safety projects. If this legislation puts Missouri in compliance with ASSUMPTION (continued)

Congressional TEA-21 requirements (23 CFR Part 1275 Section 164) concerning Repeat Offenders, the state would avoid transfer of federal highway funds (in excess of \$6 M) from construction projects to hazard elimination and/or safety projects.

L.R. NO. 4036-03
BILL NO. HCS for HB 1966
PAGE 7 OF 10
March 3, 2000

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
<u>Cost - Department of Corrections</u>			
Increased incarcerations and increased probation and parole	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
HIGHWAY FUND			
<u>Income - Department of Revenue</u>			
Reinstatement fees	\$58,236	\$99,833	\$99,833
<u>Cost - Department of Revenue(DOR)</u>			
Overtime Pay - Clerk Typist II	(\$16,719)	(\$20,063)	(\$20,063)
Forms	(6,017)	0	0
Postage	(7,405)	(5,203)	(5,203)
Total <u>Costs</u> - DOR	(\$30,141)	(\$25,266)	(\$25,266)
ESTIMATED NET EFFECT ON HIGHWAY FUND	\$28,095	\$74,567	\$74,567

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
LOCAL			
<u>Reinstatement Fees - Cities</u>	\$11,647	\$19,967	\$19,967
<u>Reinstatement Fees - Counties</u>	\$ 7,765	\$13,310	\$13,310
<u>Cost - Local Jails</u>			
Increased jail time	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON LOCAL FUNDS	<u>\$19,412</u> <u>to</u> <u>(Unknown)</u>	<u>\$33,277</u> <u>to</u> <u>(Unknown)</u>	<u>\$33,277</u> <u>to</u> <u>(Unknown)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal makes a number of changes to statutes regarding blood alcohol content traffic violations.

In its main provisions, the proposal:

- (1) Changes the blood alcohol content (BAC) level necessary for a conviction of driving with excessive BAC to .08. Currently, the BAC for this violation is .10 (Section 577.012, RSMo). The proposal also requires the license of an offender of this provision to be suspended for 90 days, an increase from the current 30-day suspension (Section 302.304);
- (2) Increases the penalty for driving while intoxicated from a class B misdemeanor to a class A misdemeanor for the first offense. The proposal also deletes the provision allowing a suspended imposition of sentence for driving while intoxicated if the offender receives probation (Section 577.010);

DESCRIPTION (continued)

- (3) Creates the crime of "aggravated driving with excessive blood alcohol content," which is the operation of a motor vehicle with a BAC of .15. The penalties are a class D felony for the first offense, a class C felony for the second offense, a class B felony for the third and subsequent offenses (Section 577.015). No limited driving privileges are available (Section 302.309);
- (4) Makes it an infraction for any person to consume or possess an open alcoholic beverage in a motor vehicle. Currently, it is a violation only to consume alcoholic beverages while operating a motor vehicle (Section 577.017);
- (5) Creates the "dangerous persistent offender" category of driver, who has previously been found guilty of either involuntary manslaughter, certain types of assault, or 4 or more intoxication-related traffic offenses. This is a class A felony. (Section 577.023);
- (6) Changes the definition of "persistent offender" to include offenders who have been found guilty of 3 or more intoxication-related offenses at any time. Persistent offenders are guilty of a class B felony. Currently, these offenders must have been found guilty of only 2 or more intoxication-related offenses in 10 years, and it is a class D felony (Section 577.023);
- (7) Changes the definition of "prior offender" to apply to persons previously convicted of 2 violations at any time, and increases the penalty to a class C felony. Currently, prior offenders are guilty of a class A misdemeanor if the offense is committed twice in 5 years (Section 577.023);
- (8) Requires 10 days imprisonment as a condition of parole for prior, persistent, or dangerous persistent offenders, unless the offender performs at least 60 days community service (Section 577.023);
- (9) Creates the "repeat offender" category of offenders, which includes persons who have been found guilty of one intoxication-related traffic offense. Repeat offenders are guilty of a class D felony. The substitute requires a minimum of 5 days imprisonment as a condition of parole for repeat offenders, unless as a condition of parole, the offender performs 30 days community service (Section 577.023);
- (10) Repeals provisions allowing the expungement of alcohol-related driving offense records (Section 577.054);
- (11) Increases the penalties for operating a vessel while intoxicated to a class A misdemeanor for a first violation, a class D felony for a second violation, and a class C felony for the third and subsequent violations. Currently, it is a class B misdemeanor for a first violation, a class A
- ASSUMPTION (continued)

misdemeanor for a second violation, and a class D felony for the third and subsequent violations (Section 306.111);

(12) Lowers the BAC for operating a vessel with excessive BAC from .10 to .08 and increases the penalty to a class A misdemeanor for the first violation and a class D felony for the second and subsequent violations. Currently, it is a class B misdemeanor for the first violation, a class A misdemeanor for the second violation, and a class D felony for the third and subsequent violations (Section 306.112); and

(13) Deletes provisions relating to ignition interlock devices and replaces them with provisions that allow a court to either require ignition interlock devices or impound or immobilize all vehicles owned and operated by an offender found guilty of a second or subsequent intoxication-related offense (Sections 577.600, 577.700).

This legislation is federally mandated under the Transportation Equity Act for the 21st Century Restoration Act which requires states to enact Repeat Intoxicated Drivers Laws. It would not duplicate any other program, would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Department of Public Safety
- Missouri State Highway Patrol
- Missouri Water Patrol
- Division of Highway Safety
Missouri Department of Transportation
State Courts Administrator
Office of the Attorney General
Office of Prosecution Services
State Public Defender



Jeanne Jarrett, CPA
Director
March 3, 2000